

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Bouchard Transportation Co., Inc.,

Plaintiff,

v.

Laurel Shipping LLC and Gulf Oil LP,

Defendants.

Case No.: 1:19-cv-09559-MKV

Hon. Mary Kay Vyskocil

**ORDER FOR APPOINTMENT OF
SUBSTITUTE CUSTODIAN**

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 2/14/2020
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Laurel Shipping LLC,

Third-Party Plaintiff,

v.

M/V ELLEN S. BOUCHARD, IMO No. 8117952, Official No. 644590, her engines, apparel, furniture, equipment, appurtenances, tackle, etc., M/V MORTON S. BOUCHARD Jr., IMO No. 9794680, Official No. 1265315, her engines, apparel, furniture, equipment, appurtenances, tackle, etc., M/V JANE A. BOUCHARD, IMO No. 9269702, Official No. 1139762, her engines, apparel, furniture, equipment, appurtenances, tackle, etc., and M/V EVENING STAR, IMO number 9629768, Official number 1234828, her engines, apparel, furniture, equipment, appurtenances, tackle, etc.,

Third-Party Defendants.
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THIS MATTER is before the Court on Defendant Laurel Shipping LLC's ("Laurel") Motion for Appointment of Substitute Custodian (the "Motion"). Having reviewed the applicable filings and law, it is hereby

ORDERED AND ADJUDGED that the Motion for Appointment of Substitute Custodian is GRANTED.

IT IS FURTHER ORDERED that National Maritime Services, Inc. ("NMS") is hereby appointed the substitute custodian of the Vessels to retain the same in custody for possession and safekeeping during the pendency of their arrest in this jurisdiction, for the compensation set forth in the fee schedule included in the Declaration of Substitute Custodian filed with the Court.

IT IS FURTHER ORDERED that the United States Marshal for the Southern District of New York is hereby authorized and directed upon the seizure of the M/V ELLEN S. BOUCHARD, IMO Number 8117952, Official Number 644590, M/V MORTON S. BOUCHARD JR, IMO Number 9794680, Official Number 1265315, M/V JANE A. BOUCHARD, IMO Number 9269702, Official Number 1139762, and M/V EVENING STAR, IMO Number 9629768, Official Number 1234828 (collectively, the "Vessels"), and the Vessels' engines, apparel, furniture, equipment, appurtenances, tackle, etc., *in rem*, pursuant to said Warrant of Arrest, to surrender the possession thereof to the custody of the Substitute Custodian, NMS, by their arrest.

IT IS FURTHER ORDERED that the Marshal shall be discharged from his duties and responsibilities for the safekeeping of the Vessels and be held harmless from any and all claims arising out of the substituted possession and safekeeping.

IT IS FURTHER ORDERED that NMS shall, at the direction of the Vessel's owner or Laurel, and by appointment only, permit prospective purchasers to board and inspect the Vessels.

IT IS FURTHER ORDERED that all Marshal's costs be paid prior to the release of the Vessels and all further constructive costs will be borne by Laurel unless Laurel is awarded expenses and costs against the Vessels.

IT IS FURTHER ORDERED that the Substitute Custodian must sign a receipt for the Vessels and the Marshal must attest to the date and time of release on a U.S. Marshal's Return.

IT IS FURTHER ORDERED that all reasonable expenditures which may be incurred by the United States of America and NMS, or by any party advancing funds to NMS, in towing, safekeeping, and maintaining the Vessels while she is in *custodial legis* shall be administrative expenses in this action and a first charge on the Vessels herein, to be paid prior to the release of the Vessels or the distribution of proceeds.

IT IS FURTHER ORDERED that NMS, at its discretion, shall be permitted to move the Vessels from their current location, if deemed necessary, to safe locations within the District, and shall provide notice to the Court, U.S. Marshal, and all parties in this action upon moving the Vessels. NMS shall also be allowed to discharge cargo, at its discretion, if necessary to perform its duties as the substitute custodian.

IT IS FURTHER ORDERED that NMS is authorized to take all reasonable measures to protect and maintain the value of the Vessels and other related property in its custody and to prevent liabilities to third parties, including personal injury, property or pollution damage, without specific authorization.

IT IS FURTHER ORDERED that NMS is authorized to release the Vessels from its custody and control to their respective owners subject to a mutual agreement between all parties to the suit.

IT IS FURTHER ORDERED that NMS shall comply with all orders of the Captain of the Port, United States Coast Guard, including but not limited to, an order to move the Vessels, and any applicable federal, state, and local laws, regulations, and requirements pertaining to vessel and port safety. NMS shall advise the Court, the parties to the action, and the United States Marshal, of any movement of the Vessels pursuant to an order of the Captain of the Port, United States Coast Guard, or otherwise within twenty-four hours of such Vessels movement.

DONE AND ORDERED in New York, New York, this 14th day of February, 2020.


MARY KAY VYSKOCIL
UNITED STATES DISTRICT JUDGE